

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 ) CC Dkt. No. 95-72  
End User Common Line )  
Charges )

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REPLY COMMENTS OF THE INTERACTIVE SERVICES ASSOCIATION

The Interactive Services Association ("ISA"), through counsel, hereby submits these reply comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.<sup>1/</sup> The NPRM seeks comment on the application of end user Subscriber Line Charges ("SLCs") to services such as Integrated Services Digital Network ("ISDN") that provide multiple voice-grade channels over a single telephone line or other communications facility provided by a local exchange carrier ("LEC"). The ISA urges the Commission to adopt rules and policies that will keep the assessment of SLCs on ISDN and other derived channel services as low as possible.

I. INTRODUCTION AND STATEMENT OF INTEREST

The ISA is a 13-year-old non-profit association which represents businesses and organizations that deliver telecommunications-based interactive services to consumers. The ISA is the oldest and most comprehensive of the associations

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<sup>1/</sup> Notice of Proposed Rulemaking in CC Dkt. No. 95-72, FCC 95-212 (released May 30, 1995).

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serving this industry, and its 300-plus members represent the full spectrum of companies now active in delivering personal interactive services.<sup>2/</sup>

ISDN represents a much needed means for consumers to access the National Information Infrastructure at higher speeds than currently possible using analog technology. Basic Rate Interface ISDN ("BRI") allows a residential or small business customer with an ordinary telephone loop to simultaneously conduct a voice telephone conversation, access an online service and send or receive a telecopy. Primary Rate Interface ISDN ("PRI") permits larger businesses to obtain 23 voice-grade equivalent channels and one high-speed data channel over a single T-1 facility. The speed and reliability at which data can be transmitted using ISDN technology far exceeds the capabilities of conventional modems and analog telephone service.

It is anticipated that the widespread availability of ISDN will encourage an increasing number of consumers to take full advantage of the Internet and other interactive services. The ISA is concerned, however, that the application of multiple SLCs to ISDN facilities could severely hamper the continued growth of the multi-billion dollar interactive services industry and delay the introduction of new services to American consumers. Thus, in a recent letter to FCC Chairman Reed Hundt, ISA's online members

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<sup>2/</sup> ISA members include online and Internet service providers, local and long distance telephone carriers, content providers and telephone service bureaus. A complete membership list is attached as Exhibit A.

cautioned against the application of multiple SLCs to ISDN and asked the Commission to promptly complete a rulemaking on this important issue.<sup>3/</sup>

In the NPRM, the Commission suggested a range of alternatives including the application of one SLC per ISDN facility and the application of one SLC per derived channel.<sup>4/</sup> The Commission's stated objective is to encourage the use of ISDN service but not at the expense of increased Common Carrier Line ("CCL") charges and interstate toll rates.<sup>5/</sup>

## II. DISCUSSION

The ISA opposes, and those parties filing comments overwhelmingly reject, the option of applying SLCs on a per channel basis.<sup>6/</sup> Indeed, the per channel approach was opposed not only by the online and local exchange industries, where such sentiment might be expected, but from a significant segment of the long

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<sup>3/</sup> Letter to Reed Hundt, Chairman, Federal Communications Commission, from Robert L. Smith, Jr., Executive Director, ISA, on behalf of America Online, Apple, Delphi, Genie, Microsoft, Prodigy, and Ziff-Davis.

<sup>4/</sup> NPRM at ¶¶ 24-31.

<sup>5/</sup> NPRM at ¶¶ 16-20.

<sup>6/</sup> See, e.g., Joint Comments of America Online, Compuserve, GE Information Services and Prodigy ("Joint Comments") at pp. 9-12, Comments of Microsoft at pp. 2-3, Comments of Bell Atlantic at pp. 5, Comments of Southwestern Bell Telephone ("SWBT") at p. 2, Comments of Pacific Bell and Nevada Bell at p. 7, Comments of Cincinnati Bell at p. 5, Comments of NYNEX at p. 17, Comments of Bell South at pp. 2-5, Comments of Ameritech at p. 3.

distance industry as well.<sup>7/</sup> The per channel approach will raise end user costs to unacceptably high levels, thereby discouraging consumers from obtaining ISDN (and services dependent upon ISDN speeds and capabilities) and deterring carriers from investing in and expanding ISDN deployment.<sup>8/</sup> Application of multiple SLCs, therefore, would contradict both the Commission's stated objective of facilitating the deployment of ISDN and Congress' mandate to "encourage the provision of new technologies and services to the public."<sup>9/</sup>

Moreover, the application of SLCs on a per channel basis has no rational relation to the LEC's non-traffic sensitive ("NTS") costs involved in providing ISDN service.<sup>10/</sup> NTS costs do not increase with the volume of traffic transmitted or the number of channels carried over an ISDN facility.<sup>11/</sup> Indeed, because there is no cost-based rationale for imposing multiple SLCs upon an ISDN facility, the application of multiple SLCs will over recover the cost of ISDN and unnecessarily stifle the continued growth of the interactive services market.

The majority of commenters in this proceeding support the application of SLCs on a per facility basis or some variation

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<sup>7/</sup> Comments of Sprint at pp. 3-5, Comments of MCI at p. 3.

<sup>8/</sup> See, e.g., Comments of Bell Atlantic at p. 3.

<sup>9/</sup> 47 U.S.C. § 157(a).

<sup>10/</sup> See, e.g., Comments of SWBT at pp. 6-7, Comments of Bell South at pp. 5-6, Comments of NYNEX at pp. 2-3, Comments of Cincinnati Bell at p. 5.

<sup>11/</sup> Id.

thereof.<sup>12/</sup> In contrast to a rule which applies SLCs on a per channel basis, the per facility approach is premised upon the NTS costs incurred in providing ISDN service. For example, Pacific Bell and Nevada Bell claim "the one SLC per facility approach reflects a system which is consistent with the way costs are imposed on the network by the customer."<sup>13/</sup> Cincinnati Bell supports the per facility approach because it "recognizes that the costs incurred by LECs to provide ISDN and other derived channel services are not dependent on the number of channels provided and, thus, would allow LECs to price these services closer to their true economic cost."<sup>14/</sup> Therefore, there is significant record evidence to find that the per facility approach would accurately recover the NTS costs related to providing ISDN service without hindering the deployment of ISDN technology.

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<sup>12/</sup> See, e.g., Joint Comments at p. 12, Comments of Microsoft at p. 4, Comments of the United States Telephone Association at p. 6, Comments of MCI at p. 3, Comments of Pacific Bell and Nevada Bell at p. 4, Comments of Bell South at p. 4. Bell Atlantic, Cincinnati Bell and Sprint also urge the Commission to apply one SLC per facility but also suggest that the Commission allow LECs to implement a modest increase in SLCs to offset any reduction on SLC revenues. Comments of Bell Atlantic at p. 2, Comments of Cincinnati Bell at p. 4, Comments of Sprint at p. 4. SWBT, Ameritech and NYNEX all support the reasoning endorsed by the above-cited parties in support of the per facility approach but contend that a per facility rule will not be sufficiently flexible to account for technological advances in the provision of derived channel services. SWBT asks the Commission to apply one SLC per "tariffed exchange service." Comments of SWBT at p. 3. Ameritech and NYNEX ask the Commission to apply one SLC per "service interface." Comments of Ameritech at p. 2, Comments of NYNEX at pp. 14-17.

<sup>13/</sup> Comments of Pacific Bell and Nevada Bell at p. 4. See, also, Comments of Bell South at p. 5, Comments of NYNEX at p. 3

<sup>14/</sup> Comments of Cincinnati Bell at p. 3.

In the NPRM, the Commission expressed concern that a per facility rule would cause a decrease in SLC revenues which, in turn, would cause CCL and interstate toll rates to rise.<sup>15/</sup> The record indicates, however, that these fears may be unfounded. For example, Bell South believes that the per facility approach would not result in decreased SLC revenues because it is consistent with the pricing structure for ISDN service used by most LECs today.<sup>16/</sup> Similarly, the Center for Democracy and Technology ("CDT") argues that because consumers will not want ISDN installations to disrupt their existing voice telephone service, they will likely utilize ISDN in connection with existing fax or modem second lines rather than convert their primary phone line, resulting in no net loss of SLC revenues.<sup>17/</sup> Indeed, some parties believe that the application of SLCs on a per facility basis may actually increase SLC revenues because the widespread availability of ISDN at affordable prices will likely spur orders for new facilities.<sup>18/</sup>

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<sup>15/</sup> NPRM at ¶ 18.

<sup>16/</sup> Comments of Bell South at p. 6. (citing Petitions for Waiver of Section 69.104 of the Commission's rules in connection with ISDN services, filed by Bell Atlantic, Pacific Bell, GTE, Cincinnati Bell, US West and Bell South). According to Bell South, "virtually no LECs assessed multiple SLCs on ISDN facilities before the Commission issued the NPRM in this proceeding. Thus, the modification of the rule would not cause a reduction in SLC revenues or increase the residual recovered through common line charges."

<sup>17/</sup> Comments of CDT at p. 11.

<sup>18/</sup> Bell Atlantic suggests that much of the demand for ISDN will be demand either for a new facility or to replace special access or private line services which are not presently subject to SLCs. Comments of Bell Atlantic at pp. 3-4. The CDT maintains (continued...)

Although there is substantial evidence in the record to support the per facility approach, some parties have advocated the imposition of multiple SLCs on ISDN PRI or the use of modest SLC surcharges as a means of preventing an increase in CCL and interstate toll rates.<sup>19/</sup> If the Commission concludes, after careful evaluation of the record, that the application of one SLC per ISDN facility will cause an increase in CCL and interstate toll rates, then it may be appropriate for the Commission to permit LECs to impose a modest surcharge per SLC. But, the amount of such surcharge should reflect only that amount necessary to avoid an increase in CCL and interstate toll rates.

Finally, several commenters raise concerns that, while related to ISDN, focus on the broader question of access charge reform, and, therefore, should be considered in a separate proceeding. For example, it has been suggested that all NTS costs associated with local switching should be recovered through SLCs, and only usage sensitive costs should be recovered through CCL or other usage sensitive charges.<sup>20/</sup> In addition, questions have been raised concerning the tendency of the present rules to inflate LEC access

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<sup>18/</sup> (...continued)

that ISDN's appeal will attract more consumers to interactive computer services, increasing the number of local phone lines and ultimately raising overall SLC revenue. Comments of CDT at p. 11.

<sup>19/</sup> See, e.g., Comments of AT&T at p. 5. AT&T proposes that the Commission apply one SLC per-facility for BRI ISDN users and one SLC per channel for PRI ISDN users. AT&T also proposes that the Commission impose a \$0.25 surcharge on each BRI SLC. See also, Comments of Cincinnati Bell at pp. 3-4.

<sup>20/</sup> Comments of AT&T at p. 12.

rates and encourage IXCs to utilize providers other than LECs to access the local loop.<sup>21/</sup> Such concerns, though deserving careful study and deliberation, should be addressed in a separate rulemaking and should not be permitted to delay a final decision in this proceeding.


### III. CONCLUSION

The ISA urges the Commission to adopt the per facility approach or some variation thereof (i.e., the "per tariffed exchange service" or "per service interface" approaches advocated by certain LECs). However, if the Commission determines that the per facility approach will inevitably lead to increased CCL and interstate toll rates, then it should allow LECs to impose a modest SLC surcharge, but only to extent that the need for such surcharge is clearly demonstrated in the record.

Respectfully Submitted

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<sup>21/</sup> See, e.g., Comments of NYNEX at pp. 20-21.